

SUPREME COURT U.S.  
FILED

NO. \_\_\_\_\_

①  
05-797 APR 7 - 2005

IN THE OFFICE OF THE CLERK  
SUPREME COURT OF THE UNITED STATES

XENIA C GUAM © , et. al., pro se,

Petitioner (s)

v

United States Court of Appeals for the Ninth Circuit;  
Before Leavy, McKeown, and Berzon, Circuit Judges,  
Case - USCA NO 04-17117 and United States District  
Court - District of Nevada; Robert C Jones, United States  
District Judge, Case - CV-S-04-0988-RCJ  
and Appellee, Plaintiff, CITIBANK SD

Respondent (s)

ON PETITION FOR WRIT OF CERTIORARI  
TO THE UNITED STATES SUPREME COURT FOR  
REVIEW OF APPEAL/S MADE TO THE UNITED  
STATES COURT OF APPEALS FOR THE NINTH DIS-  
TRICT. Judgment entered January 24, 2005. \_\_\_\_\_

PETITION FOR WRIT OF CERTIORARI

PETITIONER, XENIA C GUAM © , et. al., pro se,  
1763 Cherokee Ln  
Las Vegas, Nevada 89109  
(702) 275-2356

## First Page

### QUESTIONS

- 1 - Can Federal Judges claim that Federal Statutes are not a Federal Questions or ignore the fact that Federal Statutes are a Federal Question ?
- 2 - Can a Federal Appeals Court claim that and Appeal made based on Federal Questions and Federal Diversity can not be Reviewed ?
- 3 - Can a Petitioned Federal Case be remanded to a State Court that has already ignored all Federal Statutes and that further failed to administer Federal Statutes ?
- 4 - Can Federal Courts deprive any United States citizen that is not incarcerated or guilty of any crimes of their Constitutional Rights and protection under all Federal Statutes ?
- 5 - Is it the duty of the Federal Courts to uphold and Administer all laws in regards Federal Statutes, Laws and Acts ?
- 6 - Will the Federal Courts deprive a United States Citizen from reporting and filing a Petition of Rico Law violations against citizens or companies of the United States ?
- 7 - Does the Federal Court permit Ultra Vires to be committed by any company or institution regulated by the U. S. Treasury Department ?

**QUESTIONS (continued )**

**8 - In the event of issues where errors are made or cases cited or not applicable does a Federal Judge have the right to ORDER that a case is not review able based on those errors made by Federal Judges ?**

**9 - At issue; is it the sworn duty and obligations of Federal Judges to administer and uphold Federal Laws and Statues and to protect the Constitutional Rights of United States Citizens ?**

**10 - Can a Federal Judge Order that all records are moot and further make an Order on Mandate of all court records when errors have been made in the administration of Federal Statues and Laws by Federal Judges in and effort to hide and quash those errors made ?**

**11 - Do the Federal Courts allows illegally filed extortionate lawsuits to continue or be remanded to a state court when evidence is abundant and clear that the extortionate lawsuit was filed in violation of Federal Laws ?**

**12 - Do Federal Courts allow Banks to violate Federal Laws ?**

**13 - Do the Federal Courts allow Lawsuits that have No Proof of Claim to continue ?**

**14 - Are Violations of Federal States, Laws and Acts considered to be a Federal Question ?**

**QUESTIONS (continued )**

**15 - Are Violations of Constitutional Rights considered to be a Federal Question ?**

**16 - Is it not Federal Law that preempts State Laws when States do not protect the Constitution's Rights of United States Citizens or Federal laws that have been violated ?**

**17 - Why has the Federal Courts chosen not to Administer the Federal Laws violated in this case?**

**TABLE OF CONTENTS**

**QUESTIONS AND ISSUES PRESENTED .....i, ii,iii**

**TABLE OF CONTENTS .....iii , iv**

**TABLE OF AUTHORITIES .....v through xi**

**STATEMENT OF.....Starting at Page 1**

**ARGUMENT ..... Starting at Page 1**

**I. THE DISTRICT COURT AND THE  
NINTH CIRCUIT ERRED IN CITING  
LACK OF JURISDICTION.....Starting at Page 1**

## **TABLE OF CONTENTS ( continued )**

- 1. THE PETITIONER IS Not Protected Under  
the Due Process Clause of the United State  
Constitution.....Starting at Page 1**
- 2. Federal Statues and Laws violated were  
ignored by Federal Judges as set forth by this  
SUPREME COURT'S precedents.....Starting at Page 1**
- 3. STATE COURTS ERRED AND IGNORE  
AND FAIL TO ADMINISTER FEDERAL  
STATUES AND LAWS.....Starting at Page 1**
- 4. THE DISTRICT COURT AND THE  
NINTH CIRCUIT ERRED IN FAILURE TO  
ADMINISTER FEDERAL STATUES AND  
LAWS CITED.....Starting at Page 1**
- 5. DISTRICT COURT FAILED AND ERRED TO ADMIN-  
ISTER IT'S OWN COURT ORDERS AND  
THE NINTH CIRCUIT ERRED BY NOT ADMINISTERING  
THOSE SAME ORDERS.....Starting at Page 1**
- 6. NEITHER THE DISTRICT COURT OR THE NINTH  
CIRCUIT REMOVED THE DISTRICT COURT ORDER  
INVOKING RULE 56.....Starting at Page 1**
- 7. The Ninth Circuit's approach directly  
conflicts with decisions by THE UNITED STATES**

## **TABLE OF CONTENTS ( continued )**

**SUPREME COURT'S DECISIONS.....Starting at Page 1**

**8. The NINTH CIRCUIT FURTHER ERRED BY IGNOR-  
ING Federal Rules of Evidence, Federal Rules of Civil Proce-  
dure, Uniform Commercial Code, United States Code, Fair  
Debt Collection Practices Act, Fair Credit Billing Act, Fair  
Credit Reporting Act, Truth in Lending Act, Consumer  
Credit Protection Act, Ultra Vires, False Claim Act and Rico  
Laws.....Starting at Page 1**

**9. Single Case cited by The NINTH CIRCUIT for  
denial of Appeal is further in error as that cited case  
has been used against Federal Statues and  
Laws.....Starting at Page 1**

**10. The NINTH CIRCUIT FURTHER ERRED  
BY failure to allow subject matter to be considered  
and to disallow Federal Questions and Diversity  
to be and issue .....Starting at Page 1**

**11. The Federal Courts allowed and illegally filed  
Extortionate Lawsuit to continue and not be dismissed with  
prejudice.....Starting at Page 1**

**12. Violation of Federal Statues and Laws by Plaintiff have  
permitted Plaintiff to file and pursue and EXTORTIONATE  
LAWSUIT with the assistance of the Federal  
Courts.....Starting at Page 1**

## **TABLE OF CONTENT (continued )**

**13. The NINTH CIRCUIT DISALLOWS  
CRUCIAL FEDERAL WITNESS  
TESTIMONY.....Starting at Page 1**

**14. The NINTH CIRCUIT IGNORES FEDERAL  
STATUES AND LAW THAT MANDATE CASE  
MUST BE HEARD EXCLUSIVELY IN A  
FEDERAL COURT.....Starting at Page 1**

**15. Failure to Provide Proof of Claim  
Required by Federal Laws and Federal Court  
Order.....Starting at Page 1**

**CONCLUSION.....Starting at Page 25**

### **INDEX TABLE OF EXHIBITS\_\_\_\_\_**

**Footnotes - There are no Footnotes used - Citing are made  
within entire documents.and EXHIBITS.**

---

### **TABLE OF AUTHORITIES**

**UNITED STATES SUPREME COURT CASES and relat-  
ed Cases Cited are relevant to Points of Authorities and  
are directly relevant and related to these cases presented.  
MANY Additional Cases are cited within contents hereof.**

**TAB F AUTHORITIES ( continued )**

- 1 - *Farmers and Miners Bank v Bluefield Nat'l Bank*  
11F 2d 83,271 U.S. 669.....**
- 2 - *First Nat. Bank v. Nat. Exchange Bank*, 92 U.S. 122, 128;  
174 U.S. 364.....**
- 3 - *State v. Neilon*, 73, Pac. 3211, 43 Ore. 168.....**
- 4 - *Merchants' Bank v. Baird* 160 F. 642, 90 C.C.A. 338, 17  
L.R.A. (N.S.) 526.....**
- 5 - *Howard & Foster Co. v. Citizens' Nat. Bank of Union.*,  
33 S.C.202, 130 S.E. 758.....**
- 6 - *Norton Grocery Co. v. Peoples' Nat. Bank*,  
144 S.E. 501, 151 Va 195.....**
- 7 - *First Nat. Bank v. Nat. Exchange Bank*, 92 U.S. 122, 128;  
.....**
- 8 - *California Bank v. Kennedy*, 167 U.S. 362, 367;.....**
- 9 - *Concord Bank v. Hawkins*, 174 U.S. 64.....**
- 10 - *Wagner v. Central Banking & Security Co.*, 249 F. 145, 161  
C.C.A. 197.....**
- 11 - *People's Bank v. National Bank*, 101 U.S. 181, 25 L. Ed.  
907.....**



## **TABLE OF AUTHORITIES ( continued )**

**12 - Zinc Carbonate Co. v. First National Bank, 103 Wis 125, 79 NW 229.....**

**13 - American Express Co. v. Citizens State Bank, 194 NW 430.....**

**14 - Federal Intermediate Credit Bank v. L `Harrison, 33 F 2d 841, 842 (1929).....**

**15 - National Bank of Commerce v. Atkinson, 55 F. 471. 13.....**

**16 - First Nat `l Bank of Tallapoosa v. Monroe, 135 Ga 614, 69 SE 1124, 32 LRA (NS) 550.....**

**17 - Seligman v. Charlottesville Nat. Bank, 3 Hughes 647, Fed Case No.12, 642, 1039.....**

**18 - Parsons v. Fox, 179 Ga 605, 176 SE 644.....**

**19 - Kirkland v. Bailey, 155 SE 2d 701.....**

**20 - United States v. Neifert white Co., 247 Fed Supp 878, 879.....**

**21 - Lane v. Railey, 280 Ky 319, 133 SW 2d 75.....**

**22 - Christensen v. Beebe, 91 P 133, 32 Utah 406.....**

## **TABLE OF AUTHORITIES ( continued )**

- 23 - Bankers Trust v. Nagler, 229 NYS 2d 142, 143.....**
- 24 - Barnsdall Refining Corn. v. Birnam wood Oil Co., 92 F 2d 817.....**
- 25 - Leonard v. Springer, 197 Ill 532, 64 NE 301.....**
- 26 - Menominee River Co. v. Augustus Spies L & C Co., 147 Wis 559, 572; 132 NW 1122.....**
- 27 - Guardian Agency v. Guardian Mut. Savings Bank, 227 Wis 550, 279 NW 83. 22.....**
- 28 - Whipp v. Iverson, 43 Wis 2d 166. 23.....**
- 29 - Lewis v. United States, 680 F 2d 1239 (1982.....**
- 30 - Sedima, SPRL V. Imrex Co., 473 US 479 (1985)Rico Violation.....**
- 31 - Placid Oil Co., V. Taylor, App. 3 Cir. 1977, 345 So. 2d 254,.....**
- 32 - Shreveport, Inc., V. Heflin, App. 2 Cir. 1973, 286 So. 2d 511.....**
- 33 - Yaeger Milling Co., V. Lawler, Sup. 1887, 39 La. Ann. 572, So.398.....**

## **TABLE OF AUTHORITIES ( continued )**

**34 - *L&H Airco, Inc. v. Rapistan, Corp.*, 446 N.W.2d 372, 380 (Minn. 1989).....**

**35 - *Richfield Bank & Trust Co. v. Sjogren*, 244 N.W.2d 648, 650 (Minn. 1976).....**

**36 - *Central Transp. Co. v. Pullman*, 139 U.S. 60, 11 S. Ct. 478, 35 L. Ed. 55.....**

**37 - *F& PR v. Richmond*, 133 SE 898; 151 Va 195.....**

**38 - *Bowen v. Needles Nat. Bank*, 94 F 925, 36 CCA 553.....**

**39 - *Durante Bros. & Sons, Inc. v. Flushing Nat `l Bank*, 755 F2d 239, Cert. denied, 473 US 906 (1985) Rico Violation...**

## **POINTS OF AUTHORITY**

### **Laws Specifically violated by PLAINTIFF/S AND IGNORED BY ALL OF THE FEDERAL COURTS**

**Laws violated by the Plaintiff/s - FIRST NATIONAL  
BANK OF OMAHA AND THE SAME LAWS VIOLAT-  
ED BY the Plaintiff - CITIBANK, SOUTH DAKOTA**

**EVIDENCE of these violations has been submitted to all  
Courts.**

## POINTS OF AUTHORITY ( continued )

- 1 - Rule 28 USC Part IV Chapter 85 sec. 1332
- 2 - Rule 12 USC (b)(1)(2)(3)(6) and Rule 12 USC (b)56
- 2(a) - RULE 56
- 2(A) - U S C Title 47 Section 227 violations of Telephone usage.
- 3 and 3 (a) - PLAINTIFF 'S FAILURE TO SIGN AFFIDAVIT UNDER OATH VERIFYING SOURCE OF FUNDS - FEDERAL LAW VIOLATION
- 4 - Plaintiff Silence of Acquiescence is Misrepresentation
- 5 - Violations of Civil False Claim Act
- 6 - USC Title 28 Part IV Chapter 89 sec 1446
- 7 - Title 18 USC 241
- 8 - UCC Article 1, Part 1 ,1 -107
- 9 - UCC Article 1 Part 2 , 1-203
- 10 - Title 12 Chapter I sec 226.13, \27\, \28\, \29\, Page 215 (d) (1), \30\ (2)
- 11 - FTC Public Law 93-495 October 28, 1974 (2)
- 12 - FTC Public Law 93-495 October 28, 1974 (i)(e) 161(a),161(a)
- 13 - Title 15 USC 1692, Title 15 USC 1692g ,809
- 14 - Title 15 USC Section 1666a. (a),(b),(2)
- 15 - Title 28 USC Sec 1343 (a)(3)
- 16 - Title 28 USC 1441, (a)(b)(c)
- 17 - Ultra Vire - See Table of Authorities and contents
- 18 - Title 42 USC, 1983
- 19 - VIOLATIONS OF Administrative Law Act. Plaintiff's failure to exhaust.